MINUTES OF THE REGULAR MEETING OF THE SAN MARCOS PLANNING AND ZONING COMMISSION COUNCIL CHAMBERS, CITY HALL January 24, 2012

1. Present

Commissioners:

Bill Taylor, Chair Curtis Seebeck, Vice-Chair Kenneth Ehlers Carter Morris Chris Wood Corey Carothers Randy Bryan

City Staff:

Matthew Lewis, Development Services Director Francis Serna, Recording Secretary John Foreman, Chief Planner Christine Barton-Holmes, Chief Planner John Stanley, Planner Abigail Gillfillan, Planner

2. Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday January 24, 2012 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Election of Officers:

a. Chair

Upon a nomination made by Commissioner Morris and a second by Commissioner Ehlers, the Commission voted all in favor to elect Bill Taylor as Planning & Zoning Commission Chairman.

b. Vice-Chair

Upon a nomination made by Commissioner Morris and a second by Commissioner Ehlers, the Commission voted all in favor to elect Curtis Seebeck as Planning & Zoning Commission Vice Chairman.

4. Chairperson's Opening Remarks.

5. <u>NOTE:</u> The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;

6. Citizen Comment Period

Diane Wassenich, 11 Tanglewood spoke for the San Marcos River Foundation about the Windemere Project. She said the flooding concerns are serious at the entrance of the project. Ms. Wassenich explained that a variance was granted to allow the road to be constructed. She felt that it was not a wise move. Ms. Wassenich pointed out that they believe many lots will be under water and that Sink Creek will flood violently and when the two dams overflow it will be very dangerous for people who have homes downstream of the

two dams along the creek. She added the Mr. Stalone covered the ordinances that the Commission is to follow regarding granting variances. She said that they will continue to remind the Commission of their concerns when the item is on the agenda. They feel that it is not an appropriate place for development.

David Wendel, 118 E. Holland stated he wished Travis Kelsey was present to thank for his vote against the Sessom Creek Development. He felt that the comments from Commissioner Kelsey and Seebeck were ignored by the remainder of the Commission. Mr. Wendel pointed out that Commissioner Kelsey conveyed the mission statement of the Planning Commissioner and what it is about and every reason for voting against the project. He added that Mr. Kelsey expressed his concerns about the integrity of the neighborhoods, the health and well being of the citizens and the concerns for the compromised environment. Mr. Wendel stated that the Commission ignored the criteria to be voted on and used rational confusing fear tactics regarding the University expansion and the probability that the City would be filled with much needed tax money. Mr. Wendel pointed out that the project is in a bad location because it is a threat to the integrity to one of the neighborhoods with a poor buffer zone. He said the project will have serious and likely fatal traffic problems. He added that the project is a threat to the environment with a direct threat to the San Marcos River.

Jay Hiebert, 209 W. Sierra Circle, informed the Commission that he has been reviewing different elements of the San Marcos Horizons Master Plan. He said after the study of the Master Plan he has come away with much respect for the wisdom of the city elders who wrote the plan fifteen years ago. Mr. Hiebert said the city has doubled in size and the infrastructure must be enlarged to accommodate the future growth perhaps doubling in the next ten years. He added that he is certain for the need to stop zoning changes. Mr. Hiebert presented charts from a presentation made by Laurie Moyer. He explained that owner occupied middle class is declining. He said that the owner occupied is at 26% in 2010. He added that in 1980 apartment complexes started getting built and they need to stop. Mr. Hiebert commented that San Marcos has more renters. He gave a brief comparison to other states. Mr. Hiebert presented a chart that showed developed land and vacant land by zoning category. He said if we take the multifamily and mixed use properties, we would have 2,287 acres available for mixed use and apartment development. He asked the Commission to please vote against the zoning change.

Lisa Prewitt, 619 Maurey thanked all the Commission for opening up the doors and listening to the community. She stated that reference has been made to the Master Plan and how outdated it is. Ms. Prewitt explained that the vision goals and policies are good and should stay intact. She added that the vision is perfect for San Marcos. Ms. Prewitt stated that times have changed and we have learned allot in the last 17 years. She added that the mission statement should not be dismissed. She felt that the map should be reviewed and determine what is best for the city for its present and future growth needs. Ms. Prewitt felt that we should currently grant permits where land is appropriate but do not remove acres of trees and possibly damage the river and encroach on a neighborhood. She pointed out that we can make a difference in our town and can control it now while the city and community embarks on the new Master Plan. She told the Commission to look at jewel that we have been given to protect. Ms. Prewitt said she has learned allot in the last six to eight weeks and everything San Marcos has to offer.

Jim Garber, 104 Canyon Fork, spoke about traffic on Sessom Drive. He pointed out that there was a wreck Thursday on Sessom where a motorcycle was trapped under a bus. He explained that traffic studies have been done and the City's traffic expert has informed them that the intersection of Aquarena and Sessom is failing at a level E. In addition, the City's traffic expert has said that it is impractical and that there are no practical solutions because it will involve adding lanes. Mr. Garber told the Commission not to take his word but to listen to the city expert, Mr. Avila.

Jaime Briehan, 134 E. Hillcrest provided the Commission with a watershed map in relation to an overlay of the current multifamily development. He explained that the map shows the percentage of impervious cover already created which the river currently receives runoff. He added that there have been some improvements on Holland. Mr. Breihan stated that the there is a fast flow of water downstream in a short time. He said if the density and traffic increases people will not be able to get through the traffic and have to drive around to Ranch Road 12. Mr. Breihan added that someone should not have to get in their vehicle and drive out of their way to get around because of new development.

Tyler Carlson, 136 Hunters Glen Drive gave a brief history of when Windemere was purchased and the problems with ecology. Mr. Carlson said that the homes are being placed where the homes would have been flooded in 1998. He expressed concerns regarding traffic on Post Road. He explained that traffic will increase with additional homes. Mr. Carlson cautioned the Commission in allowing high density in the area. He felt that there is no commitment from the developers that they are going to keep properties to one house per acre. He reminded that Commission that there are people who are watering on certain days of the week and taking care of the river. He can't image what they would think when they find out what the City has done or will do to endanger the quality of the river with developments along Sessom and Sink Creek.

Jeff Lowe, 1255 N. LBJ across from Hillside Ranch said he has lived there for 20 years and has seen the changes throughout the years. He said he thought the development would have two entrances or two exits. He asked if Hillside Ranch II will use the same entrances and exits for the current Hillside Ranch. Mr. Lowe explained that there are currently traffic issues and asked the Commission to look into it. He added that traffic would be a big mess if people are allowed to use the existing entrances and exits. Mr. Lowe thanked the developer for opening up a separate exit. He pointed out that people cannot see the small exit signs.

Harold Stern, 201 Oakridge Drive spoke against the Hillside Ranch Phase 2 zoning change request. He stated that zoning is a compact that the city makes with the residents and potential newcomers. He added that the city provides stability and reasonable expectations for residents and in exchange the residents are willing to make long term commitments to the City. Mr. Stern explained that the compact is beneficial to both sides and zoning should only be changed under extremely compelling reasons. He added that they chose to live in San Marcos because of its beauty and stability in neighborhoods. Mr. Stern mentioned that he reviewed the Master Plan and zoning carefully prior to the purchase of their home. He said they trusted the City to preserve the integrity of their neighborhood. Mr. Stern felt that their neighborhood is being threatened by a proposed rezoning. He said there are plenty of underutilized and undeveloped areas already zoned for apartments. Mr. Stern added that he and his neighbors have kept their part on the zoning compact by investing their lives, energy and dreams in San Marcos. He asked the Commission to keep their promise.

Cory Swartz, 101 W. Mimosa Circle thanked everyone for speaking and said she agrees with their sentiments. She asked the Commission to keep in mind the big picture of the hydrology of the area. She added that unfortunately the University sits on three different watersheds. Once again, she asked the Commission to keep in mind the big picture when they are considering making changes from low density to high density. Ms. Swartz explained that her husband, a Texas State Hydrology Professor in the Biology Department went out to the Sink Creek property and walked up the drainages toward the Hillcrest Phase I apartments. She explained that there are two drainages that meet where the power lines cross. She added that her husband took pictures that clearly show drainage coming down from Hillcrest Apartments Phase I which is washing out the streambed and depositing sediment on the green space. In addition, she said you can see where the water is recharging prior to reaching the recharge zone. Ms. Swartz asked the Commission to please keep all information in mind when considering building in the areas. She pointed out that there are plenty of areas that do not impact the watershed areas. She informed the Commission that there are over two thousand people who have signed a petition for a moratorium for no more rezoning.

Consent Agenda:

- 7. Consider the approval of the minutes from the Regular Meeting on December 13, 2011.
- **8. PC-11-01(02) (Windemere)** Consider a request by Vigil & Associates, on behalf of Vinson Wood and Robert Haug for a Preliminary Plat for 74 lots on approximately 235 acres, located at 200 Lime Kiln Road.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Ehlers, the Commission voted on consent to pull items 7 and 8 from the consent agenda. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Seebeck, the Commission voted five (5) and one (1) to not approve the minutes of the Regular Meeting on December 13, 2011. The motion carried.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Carter, the Commission voted on consent to approve PC-11-01(02). The motion carried unanimously.

Public Hearing

9. CUP-12-02 (Texas Music Theater) Hold a public hearing and consider a request by San Marcos Entertainment, L.L.C., for renewal of an Unrestricted Conditional Use Permit to allow the sale of mixed beverages for on-premise consumption at 120 E. San Antonio Street.

Chair Taylor opened the public hearing.

Scott Gregson, 120 W. Hopkins, representing Texas Music Theater stated that he has met with most of the neighbors and they seem be favorable compared to the previous operation that was at the location. He explained that they keep the sidewalks clean and power wash regularly. Mr. Gregson pointed out that the business is a place of entertainment and not a bar. He stated he was available to answer any questions.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Morris, the Commission voted on consent to approve CUP-12-02 for three years provided standards are met, subject to the point system. The motion carried unanimously.

10. PDA-11-03 (Lazy Oaks Ranch) Hold a public hearing and consider a request by ETR Development Consulting on behalf of Lazy Oaks Ranch, L.P., for a petition for a development agreement for approximately 1,396.9 acres out of the W. Burke Survey, Abstract No. 68, the W. Smithson Survey, Abstract No. 419, the J. Williams Survey, Abstract No. 43, and the J. Huffman Survey, Abstract No. 228, located off of Ranch Road 12 west of Wonder World Drive.

Chair Taylor opened the public hearing.

Thomas Rhodes, ETR Development Consulting, 401 Dryden Lane, Buda introduced his two partners, Bill Bryant and Brian Lee. Mr. Rhodes requested authorization to move forward in the negotiation process for a very low density single family residential subdivision.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Wood, the Commission voted on consent to approve PDA-11-03. The motion carried unanimously.

11. A-11-03 (S. LBJ Drive & Guadalupe Street) Hold a public hearing and consider a request by Richard E. Kinsey for the abandonment of a 285.86' X 16.67' undeveloped alleyway between S. LBJ Drive and S. Guadalupe Street and bound by the Donaldson Right-of-Way to the north and railroad tracks to the south.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

AMENDED MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Curtis, the Commission voted on consent to amend the main motion to change "owner" to "applicant" in number two and three of the conditions. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Seebeck, the Commission approved on consent to approve A-11-03 with the conditions that the applicant will dedicate 15' wastewater easement centered along the path of an existing 8" wastewater main that crosses the subject tracts; the owner will obtain an appraisal and metes and bounds survey description/exhibit of the alleyway to determine a monetary value of the subject tract; the owner will obtain an appraisal and metes and bounds survey description /exhibit of the 15' wastewater easement for dedication to the city; if feasible, future wastewater main relocation and consideration will be included in the easement dedication statement; and a

license to encroach within the 15' wastewater easement may be pursued by the owner of an existing building on the property noted in the application which the 8" wastewater main passes underneath as shown in Exhibit "A." The motion carried unanimously.

- **12.** LUA-11-23 (Hillside Ranch Phase 2) Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a land use map amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for 10.925 acres located at 1410 N. LBJ Drive.
- **13. ZC-11-37 (Hillside Ranch Phase 2)** Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a zoning change from Single Family Residential (SF-6) to Multi-Family-12 (MF-12) for 10.925 acres located at 1410 N. LBJ Drive.
- **14. PDD-11-11 (Hillside Ranch Phase 2)** Hold a public hearing and consider possible action on a request by ETR Development Consulting, on behalf of Jared Shenk and Dan Anderson, for a Planned Development District Overlay (PDD), with a base zoning of Multi-Family-12 (MF-12) for 10.925 acres located at 1410 N. LBJ Drive.

Sherwood Bishop, 24 Elm Hill Court stated that they were originally against the request and signed a petition. He explained that they would have liked a single family subdivision. However, they are very aware about a KB Home subdivision which is a growing number of houses with a large number of students living in them. Mr. Sherwood explained that cars block traffic and houses are packed with three to four trucks per house. He added that the owners of Hillside offered to negotiate with the neighborhood and over a period of weeks they have agreed to most all of the changes the neighborhood has requested and stated that the PDD will be better for surrounding neighborhood and community. He explained that the provisions of the PDD offer a large buffer area of parkland dedication; limitations of apartment density to 12 units per acre compared to 24 units at the current Hillside Ranch; and less environmental impact than a single family neighborhood would have. Mr. Bishop added that almost everyone has signed a petition to remove their names. He said he is very thankful for the negotiations of the Hillside Ranch owners.

Diane Wassenich, 11 Tanglewood spoke as a neighbor and resident of the neighborhood. She explained that the public has not had a chance to see the Traffic Study. Ms. Wassenich hoped that the Commission would postpone the request due to the information not submitted on time. She mentioned that one small section of a small street in the neighborhood has been pressured enough to withdraw their petition signatures. Ms Wassenich pointed out that they have a petition of 2,240 signatures of people who are asking to stop destabilizing their neighborhood by rezoning from single family to apartments. She added that she has hundreds of signatures in Elm Court that are opposing the request. Ms. Wassenich stated that the same traffic issues that have been discussed about Sessom Drive also apply to this request. She asked the Commission to not destroy the few good neighbors that are left in the City. She told them not to encroach further in the neighborhood with apartments. Ms. Wassenich asked the Commission to follow the Master Plan. She added that she would like to meet with each of the Commission to discuss engineering issues.

Frances Horne, 204 Oakridge Drive stated that he has removed his name off of the petition because he does not like petitions. He said he does not have a major issue with new plan except with the issue of LBJ. Mr. Horne explained the street is a fairly decent street until it comes to Holland and it narrows. He felt lights are needed. He explained that students run the stop sign. He said LBJ needs to be widened. Mr. Horne said he is concerned about the traffic.

David Sergi, 904 Burleson stated he is a former resident of Tulle Street and has had the opportunity to observe the traffic and the environment of the area. He said he was present to speak about the character of the neighborhood. Mr. Sergi pointed out that the Community has spoken about development. He asked the Commission to step back. Mr. Sergi said he is pro development and is in support of intelligent development. He said in his opinion, we need to step back, stop spot zoning and look at a comprehensive plan. He explained that 4000 acres have been set aside for apartment and that the issues need to be addressed as a community.

Leah Cantu, 7107 Maverick Court, Buda Texas said she is not currently in San Marcos, but has 15 family members in San Marcos. She explained that in the flood of 1998 three households in her family along the San Marcos River were affected by the flood. Ms. Cantu added that they lost about ¾ of their belongings. She mentioned that she rode up Hwy 80 and was delayed for hours to come into town. She explained she tried going up Sessom but it was blocked off and no way of getting up the hill. Ms Cantu pointed out that the 2005 FEMA map is outdated. She mentioned that the 2007 FC report shows that the location is a continuous location of creeks that are part of the Edward's Aquifer. Ms. Cantu said Sink Creek, Sessom and Purgatory Creek, and Schulle Canyon Creek all go downhill and into the San Marcos River. She pointed out that there are several endangered species by the Freeman building and in Sewell Park where there are four endangered species and critical habitat. Ms. Cantu added that the salamander now only has 20 meters of the 50 meters they used to have due to construction runoff up by the University.

Jane Hughson stated that she was not speaking for or against the request. She pointed out that she is in support for not rezoning anymore single family until Land Use Plan has been reviewed and updated. She mentioned that she has signed the petition and keeps one with her in case anyone else would like to sign the petition. Ms. Hughson addressed concerns regarding access on Holland and the ability for a fire truck to drive onto the trail and get to the preserve.

Patrick Montgomery, 807 Center Street said with this particular development he felt that keeping the integrity of the town is not a priority. He stated that growth of Texas State is inevitable and protecting the existing neighborhoods does not seem to factor in the equation. Mr. Montgomery felt that the duties of the Planning and Zoning are to protect what is here and knowing the opportunities that are available. He pointed out that there is plenty of raw land on the edges of San Marcos for development. Mr. Montgomery added that they have a great plan but in the wrong place and is in opposition of the request. He added that the developers see the trees, rocks, nature and see an opportunity; we see it as a way of life. He asked the Commission to consider all aspects and to protect their homes.

Vincent Debrock, 100 W. Hillcrest Drive said he sees allot of effort put in the project but the problem is the location. He said he is glad the Commission is trying to save the trees. Mr. Debrock expressed his concerns regarding transplant trees that are of lower quality and have a short life span. Mr. Debrock asked the Commission to consider an amendment and hold the developer liable for keeping the heritage trees alive for at least 3-5 years. He pointed out that if trees don't last it is because of construction stress and trees should be replaced. Mr. Debrock said his other concern is the crossroad of Holland and LBJ.

Nancy Moore, 15 Tangelwood said she wants the Commission to think about traffic from North to Sagewood and the traffic that they will put on the LBJ neighborhood. She said they were told that traffic would not go LBJ but City Council has opened the thoroughfare. Ms. Moore pointed out that she has had thousands of dollars worth of damage to her property with cars coming down Tanglewood thinking it is street and have run right through huge boulders and telephone poles. She asked the Commission to keep the neighborhood single family. Ms. Moore explained that the Planning Department said the development would be required to have a detention pond if it was a single family neighborhood. She said a 200' buffer is not very much. She asked the Commission to postpone the request.

Annie Sergi, 904 Burleson said the process in which the Commission uses is not right. She felt that the rules are being moved aside and that the Commission is going by what might benefit them other than the purpose of the conditions. Ms. Sergi asked what would benefit our town. She added that the zoning is not outdated as discussed. She asked the Commission to think about the voting process what the ethical and moral thing to do.

Cynthia Gonzales, 113 Elm Hill Court stated that at the last meeting she was very much against the project. She explained that she has signed the petition in favor of it. Ms. Gonzales pointed out that the immediate neighborhoods are in support of the request. She added that the developers have listened to the neighborhood requests and have developed a sense of trust. Ms. Gonzales said people outside of the neighborhood are speaking against the request and concerned about traffic issues. She asked if a roundabout has been considered. Ms. Gonzales stated that she has firsthand experience of the traffic because she drives LBJ and Holland regularly.

Jennifer Jenson, 203 Oakridge Drive said after the Sessom Creek project she have lost faith in the Planners to make the right decision. She added that not only will Elm Hill Court neighbors be impacted but all the surrounding neighbors outside of the 200' buffer. Ms. Jenson said she is frustrated by the process and asked the Commission to not approve the request. She requested that the Commission stop converting single family residential to multifamily.

Jaimy Breihan, 134 E. Hillcrest said he resides approximately 800' from the project. He said that the most critical issue is traffic. He explained that on a Thursday, Friday and Saturday you can double the traffic until 3 or 4 a.m. on Holland, Hillcrest and LBJ. Mr. Breihan said considering the amount of land available for this type of development, he requested that the request be postponed. He added that the Commission considers the voice of the community.

RC White, 114 Elm Hill Court said he and his wife have lived on Elm Hill Court for 21 years and have seen the 10 acres outside their back yard. He said they would like to look at acreage for an additional 20+ plus years but knows that it is not going to happen. Mr. White said he was concerned if Hillside Ranch does not expand onto the property, what will happen. He doubted that quarter acre homes would not be built on the property. He felt that if the property was developed the property would become similar to Holland Park. Mr. White explained the concerns of Holland Park. He pointed out that the Sessom Creek development is not the same as this request. He added that he hopes the Commission approves the project.

Jeana Flemming, Dartmouth Street said she is one of the 2,240 people that signed the petition. She stated that she wants the zoning changes to come to a pause. Ms. Flemming mentioned that she has been looking for a house for four years. She added that the many zoning changes discourage people from buying a home in San Marcos. Ms. Flemming said there is an existing traffic problem on LBJ and Sessom. She added that when a development increases the density and traffic people are insecure. She mentioned that there seems to be some sort of premise that we need to develop if there is a little bit of open space. She added that with as much development that we already have on LBJ and on an incline it is more important to leave some vacant land that will provide a buffer to mediate the runoff.

Sylvia Alba Love, 106 Elm Hill Court said she feels that the project should not be developed other than single family. She added that if we are going to expand the University, we need to expand to house professors and not students. Ms. Love said the traffic is insane and invited the Commission to drive on Holland, LBJ and Sessom during rush hour. She asked the Commission why they are so insistent to develop every piece of property that we have in San Marcos. She pointed out that they do have to worry about Sink Creek because it going into the San Marcos river. She told the Commission to think about it.

Lee Stern, 201 Oakridge said she can hear parties on Craddock and functions downtown and expressed concerns regarding the buffer between Hillside Ranch II and Elm Hill Court. She pointed out that many people object to the KB homes built on Holland because there are too many cars. She pointed out that there is a mechanism in place for dealing with the issues. Ms. Stern advised that people need to call the police to report occupancy restriction violations.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Ehlers, the Commission voted on consent to postpone LUA-11-23, ZC-11-37 and PDD-11-11. The motion carried unanimously.

Non-Consent Agenda:

15. Receive presentation from staff regarding new permit software.

Abigail Gillfillan gave a brief presentation on Mypermit Now Software.

16. Discussion regarding policy establishing the timeframe when items can be considered by the City Council after going before Planning and Zoning Commission.

Matthew Lewis explained that Planning & Zoning Commission items will not be considered at City Council until seven days after a Planning Commission meeting.

17. Suggestions for future agenda items.

The Commission asked that staff be prepared to speak on behalf of concerns related to the LBJ and Hillside Ranch projects.

Commissioner Seebeck requested a presentation concerning spot zoning.

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

18. Development Services Report

- 1. Agenda Process
- 2. Level of Service
- 3. Downtown Architectural Standards
- 19. Questions from the Press and Public.
- 20. Adjourn.

Chair	Taylor adjourn	ed he Planning	and Zoning Commission	at 9:14 p.m. on Tuesday	, January 24, 2012.
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Curtis Seebeck, Vice Chair

Chris Wood, Commissioner

Carter Morris, Commissioner

Bill Taylor, Chair

Randy Bryan, Commissioner

Kenneth Ehlers, Commissioner

Corey Carothers, Commissioner

ATTEST:

Francis Serna, Recording Secretary